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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

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In the matter of	
Petition for Interpretation of Computer Reservations System (CRS) Regulations	Docket No. OST-99-5888-1

PETITION OF AMADEUS GLOBAL TRAVEL DISTRIBUTION, S.A. FOR INTERPRETATION OF CRS RULES

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Amadeus Global Travel Distribution, S.A. ("Amadeus") hereby petitions the Department to issue a statement or order interpreting its computer reservation system ("CRS") rules published at 14 CFR Part 255 to prohibit the practice of tying the availability of corporate discount fares to the use of a CRS owned by the airline offering the discounted fares. This tying practice constitutes a violation of the terms and purposes of several provisions of section 255.8 of the CRS rules, 14 C.F.R. 255.8, and the Department should plainly announce that such tying is prohibited and that it will enforce that prohibition through appropriate means. Such an interpretation is warranted because the tying practice at issue here is broadly employed to distort competition in the CRS industry, constitutes an "unfair method of competition" and an "unfair or deceptive practice" in the sale of air transportation under section 4 17 12 of the Aviation Code, 49 U.S.C. § 4 17 12, and contravenes settled antitrust principles applied by the Department in formulating its CRS rules. In the event that the Department chooses, however, not to issue the

requested interpretation of its rules, Amadeus urges the Department to institute a rulemaking proceeding to revise the rules so as to clearly prohibit the conduct at issue here.

I. Background

The practice of tying access to corporate discount fares to the use of a particular CRS has been extensively commented about in other Department proceedings concerning the CRS rules. In its 1992 decision adopting the current CRS rules, the Department acknowledged that "a vendor's tactic of telling businesses that certain discount fares may be obtained only through its subscribers could be an effective means of using a dominant share of the local airline market as a tool for obtaining a larger share of the local CRS market," and concluded that if a tied fare were "widely available" to businesses, the practice may constitute an unlawful tying arrangement. [1] The Department also pointed out that if an airline "widely offers a discount fare to businesses on the condition that they use its CRS for booking the fare, that would be a violation of the requirement that commonly available fares be made available to all systems," but declined "at this time" to adopt a general prohibition on "tying the availability of special corporate fares to use of [an] affiliated system for booking the fares."[2] The Department's decision thus unfortunately left an enormous (and we believe unanticipated) anticompetitive

[1] Docket No. 46494, Computer Reservations Systems Regulations, 57 Fed. Reg. 43780, 43801 (Sept. 22, 1992).

[2] Id. During the course of the 1992 proceeding, System One, Worldspan and Aer Lingus urged the Department to ban tying access to corporate discount fares to use of an airline's affiliated CRS. American Airlines ("AA") asked the Department to apply the existing rules against tying "to special deals to corporations – deals which are today available only if the corporation books through an agency that uses the airline's CRS. . . . This is a serious distortion of competition between CRS's, travel agents and airlines." (AA Comments in Docket No. **46494,** at 36)

loophole in the implementation of the CRS rules that persists today, effectively licensing the tying of corporate discount fares to the use of a particular CRS, contrary to the terms and purposes of the rules DOT adopted.

In its September 10, 1997 Advance Notice of Proposed Rulemaking in Docket OST-97-2881 (the Department's pending global review of the CRS rules), the Department expressly requested comments on the corporate fare tying issue.[3] In initial and reply comments filed with the Department in that docket, several parties, including Amadeus, urged the Department to close the loophole by expressly prohibiting the tying of corporate discount fares to the use of a particular CRS.[4] Amadeus reiterated this position in its November 10, 1998 supplemental comments filed in that proceeding, in which it brought the Department's attention to the unavailability, based on a decision of a Florida state court, of a state law remedy to address the tying practice.[5] Significantly, no party that filed comments in response to the Advance Notice of Proposed Rulemaking issued in OST-97-2881 opposed the relief requested by Amadeus, i.e., the closing of the loophole that allows the tying of fares to use of a particular system.

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[3] See 62 Fed. Reg. 47606, 47610 (Sept. 10, 1997).

[4] See, among others, comments filed in Docket OST-97-2881 by Amadeus, System One Information Management, L.L.C. ("System One"), Galileo International, L.L.C., the American Automobile Association ("AAA"), American Express Travel Related Services, The Large Agency CRS Coalition, Midwest Agents Selling Travel (MAST) and Continental Airlines ("Continental"), discussed in greater detail below. System One, now known as Amadeus Global Travel Distribution LLC, is the national marketing entity for Amadeus in the United States.

[5] See System One Information Management, L.L.C. v. American Airlines, Inc. and The Sabre Group, Inc., No. 97-03838 (Cir. Ct., Dade County, FL) (order granting summary judgment for defendants issued June 11, 1998; reconsideration denied Sept. 28, 1998). This decision is discussed further below.

II. The Department Should Not Await the Outcome of its Global Review of the CRS Rules Before Addressing the Important Issue Raised Here

The Department has delayed action in the OST-97-2881 proceeding and has recently issued a second extension of the sunset date of the current rules to March 31, 2000 in order to allow additional time for it to complete its comprehensive review of the current CRS rules. The delay in the disposition of that proceeding should not cause the Department to delay action on this petition.

In its February 26, 1999 notice proposing a second extension of the CRS rules (issued in Docket OST-99-5132), the Department noted that it was considering "whether some issues are of such overriding importance that they should be addressed before completion of the overall reexamination of the rules."[6] As stated in its comments filed in response to that notice, Amadeus submits that prompt resolution of the corporate tying issue is indeed of "overriding importance" because the loophole in the rule against tying fare availability to CRS usage strikes at the heart of the purposes sought to be achieved by the CRS rules, i.e., the protection of competition and the restraint of discriminatory practices in the area of CRS services.'

The Department's March 30, 1999 decision in OST-99-5 132, finalizing the second extension of the CRS rules, found that "almost all parties in the underlying rulemaking

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[6] 64 Fed. Reg. 9457, 9458 (Feb. 26, 1999) (emphasis added).

[7] The proposal set forth here is not unlike the proposal to prohibit enforcement of parity clauses, which the Department handled in a proceeding (Docket OST-96-1145) separate from its global review of the CRS rules. See 62 Fed. Reg. 59784, 59785 (Nov. 5, 1997). In that proceeding, the Department found that prompt action was required because the enforcement of parity clauses was injuring certain carriers and interfering with the distribution of airline services. It also found that its action was consistent with an underlying purpose of the existing CRS rules to eliminate unreasonable restrictions on the ability of agencies to change systems. Id. (citing section 255.8(b), prohibiting parity clauses in subscriber contracts).

(OST-97-2881) [agree] that CRS rules are still necessary" and that "maintaining the rules in effect appeared to be necessary to protect airline competition and consumers against unreasonable practices."[8] While these findings support the prompt issuance of the interpretation sought here, that decision nonetheless stated that the Department would consider the tying issue, and requests of other parties for more expedited action on other CRS matters, only in conjunction with its overall review of the rules in Docket OST-97-288 1. The Department stated in this regard that the requests for expedited action "are generally controversial and opposed by other commenters."[9]

Respectfully, Amadeus submits that its proposal is not controversial – the record in OST-97-2881 reflects broad support from all sectors of the interested aviation community for closing the corporate discount loophole. Further, while the possibility exists that some may disagree with the proposal advocated here, that is not an adequate basis on which to defer its consideration.[10] The absence of controversy surrounding the Amadeus proposal for closing of the corporate fare/tying loophole thus stands in stark contrast to other proposals on which certain parties have sought more expedited action from the Department, including the highly

[8] See 64 Fed. Reg. 15127, 15128 (Mar. 30, 1999).

[9] See 64 Fed. Reg. 15127, 15128 (Mar. 30, 1999).

[10] The comments that support closing the corporate fare loophole are summarized below. In its March 29, 1999 letter filed in OST-99-5 132, The Sabre Group, Inc. ("Sabre") opposed consideration of Amadeus' proposal in a separate proceeding, but did not object to a prohibition against tying on substantive grounds. Rather, Sabre urged the Board to enforce its current rules, while endeavoring to shift the Department's attention to other issues extraneous to this matter. In its comments in OST-97-288 l, Sabre voiced no opposition to the proposal to prohibit tying of corporate fares to use of a particular system. Amadeus agrees with Sabre that heightened enforcement of the CRS rules governing tying is appropriate.

controversial proposal of America West Airlines, Inc. to regulate booking fees, a proposal not only strongly opposed by Amadeus and all other systems, but one that would require major revision to (not merely an interpretation of) the CRS regulations.[11]

Further, DOT can address the matter raised here by issuing an interpretation of its current rules; it need not amend those rules or address the broader range of issues that have been raised in the OST-97-2881 proceeding. In this regard, the relief sought here requires no major new policy determinations by the Department, but merely a determination to extend the core anti-discrimination purposes of the CRS rules (already reflected in section 255.8 of the rules) to reach fares that are not presently deemed to be covered. In short, the Department should not hesitate to act on this petition pending the completion of its proceedings in Docket OST-97-288 1. The compelling need for Department action is discussed next.

III. There is a Compelling Need for Department Action

In its prior filings in Docket OST-97-2881 and related dockets, Amadeus documented several instances in which owner-airlines refused to make corporate discount fares available to entities that did not use their affiliated CRSs.[12] Other commenters – including travel agency interests, CRSs and airlines – also reported on the widespread nature of this

[11] Worldspan proposed to extend the mandatory participation rule to airlines that market other systems, a proposal supported by Amadeus, but opposed by several parties. Notably, Worldspan urged the Department to act on its proposal only if the Department chose not to address all outstanding CRS issues in a single proceeding.

[12] For example, in its November 10, 1998 supplemental comments filed under Docket No. OST-97-288 1, Amadeus reported that it had recently learned that AA had advised a major travel agency that it must switch from Amadeus to Sabre in order to offer one of its major corporate accounts discount fares on AA. The corporate client also insisted that the agency switch systems so that it could take advantage of the lower fares. (Amadeus Supplemental Comments at 4)

problem.[13] **Indeed, the fact that a broad range of parties representing different (and often competing) interests commented in opposition to the tying of corporate fares should not**

[13] As System One pointed out in its reply comments filed on February 3, 1998 in response to the Department's September 10, 1997 ANPRM under Docket No. OST-97-2881, any doubt that tying abuses are real "is dispelled by the initial comments filed by travel agencies and travel agency associations." (System One Reply Comments at 2) In its initial comments, System One recounted several examples of airline-owners forcing travel agents to use their systems in order to gain access to corporate discount fares. (System One Comments at 3-4) Other commenters also discussed the problem of tying. For example, AAA complained that the current CRS rules "do not prevent airlines from tying a corporation's fare discount to the use of their particular CRS." (AAA Comments at 2) AAA further explained that after it decided to convert from one CRS to another, an owner-airline advised it that "any corporate clients employing AAA travel agencies will be required to switch from AAA to another travel agency using that airline's particular CRS." (AAA Comments at 2) American Express Travel Related Services reported that airlines "condition the receipt of corporate airfare discounts on corporations booking through an airline's propriety [sic] electronic reservation system." (American Express Travel Related Services Comments at 2) The Large Agency CRS Coalition protested that "three vendors have instituted fare tying practices by requiring travel agencies to use a system as a condition for receiving corporate discount airfares to or from hub cities of the owning air carriers. . . . These practices are called 'corporate tying' in the industry. They violate the spirit of Section 255.8(d)." (The Large Agency CRS Coalition Comments at 7) According to MAST (an association of over 370 travel agencies), "Major airlines with CRS ownership interests do coerce agencies into using their systems by tying this use to access to negotiated fares. . . ." (MAST Comments at 3) Sabre's initial comments report that, "The occurrence of tying practices which violate Section 255.8 is both widespread and common knowledge in the industry." (Sabre Comments at 33) America West complained in its comments about the practices of certain airlines which tie corporate fares and other discounts to use of a particular system. (America West Comments at 20) Continental also reported that some owner-airlines are now "warning travel agencies that they will lose their corporate client accounts unless they subscribe to the airline's CRS." (Continental Comments at 20) System One's December 9, 1997 initial comments in Docket No. OST-97-2881 described a major carrier's corporate agreement, which expressly conditioned the availability of corporate discount fares on the use of its affiliated CRS. (System One Comments at 4) System One also recounted a particular instance in which that carrier forced a subscriber to use its system to retain a client's discounted fares. (System One Comments at 4) Moreover, in June 1998, Lyn-Lea Travel filed a complaint with the Department that charged AA/Sabre with routinely linking the availability of corporate discount fares to an agency's use of Sabre, an allegation that AA did not deny in its answer filed in that proceeding. See Lyn-Lea Travel Corporation d/b/a First Class International Travel Management v. American Airlines, Inc. and The Sabre Group, Inc., Docket No. OST-98-3963.

escape the Department's attention. This virtual unanimity of opinion on this matter argues strongly in favor of prompt Department action.

These situations are increasingly commonplace in the market. Recently, for example, Amadeus received verification of yet another instance in which a corporation was threatened with the loss of its discount fares by a particular airline because it switched its business to a travel agency that does not use the CRS affiliated with the airline. The corporation succumbed to the pressure.

Large numbers of business travelers that work for major corporations are now impacted by the tying practices, as the comments filed in OST-97-2881 amply demonstrate. Unfortunately, parties injured by the anticompetitive abuses resulting from these tying practices likely have no legal recourse under state law because the preemption provisions of section 417 13(b) of the Aviation Code, 49 U.S.C. § 4 17 13(b), may block such suits. In February 1997, System One sued AA and Sabre in Florida state court, alleging tortious interference with its contract to provide CRS services to Burger King. AA/Sabre coerced Burger King to switch from System One to Sabre before its contract with System One had expired in order to retain its discount fares on AA, which maintains a hub in Miami." On June 11, 1998, the court granted summary judgment for the defendants on the ground that section 4 17 13(b) preempts state tort

[14] See System One Information Management, LLC v. American Airlines, Inc. and The Sabre Group, Inc., No. 97-03838 (Cir. Ct., Dade County, FL). During discovery in the case, AA acknowledged that Burger King's access to AA's discount fares was conditioned on its use of Sabre.

law in this area.[15] This decision will likely prompt more tying of CRS use to corporate fares, further undermining the anti-discrimination purposes underlying the CRS rules.

The tying of corporate discount fares by an airline dominant in a particular region to the use of its affiliated CRS plainly constitutes an "unfair method of competition" and an "unfair or deceptive practice" under section 4 17 12 of the Aviation Code. As the Department explained in its 1997 rulemaking, "A tying arrangement -- a seller's agreement to sell one product only on condition that the buyer purchase a second product from the seller . . . is a per se violation of the Sherman Act if the seller has appreciable market power in the tying product and if the arrangement affects a substantial volume of commerce in the tied product. Tying arrangements are objectionable because they force buyers to accept conditions that they would not accept in a competitive market."[16]

Linking the availability of discount fares to the use of an affiliated CRS forecloses substantial competition in the CRS market because carriers that are dominant in a particular region can use their market power in air transportation services to coerce travel agents and business travel departments to purchase their CRS services, whether or not they would otherwise have done so in a competitive market.[17] CRS-affiliated airlines may possess significant market

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[15] Section 41713(b) of the Aviation Code provides that a state "may not enact or enforce a law, regulation or other provision having the force and effect of law related to a price, route or service of an air carrier." 49 U.S.C. § 41713(b).

[16] Computer Reservations System (CRS) Regulations, Docket No. OST-96-1145, 62 Fed. Reg. 59784, 59795 (1997) (citing Eastman Kodak Co. v. Image Technical Serv., 504 U.S. 45 l, 461-62 (1992); Jefferson Parish Hosp. v. Hyde, 466 U.S. 2, 12-15 (1984)).

[17] As the U.S. Supreme Court has explained, "The essential characteristic of an invalid tying arrangement lies in the seller's exploitation of its control over the tying product to force the buyer into the purchase of a tied product that the buyer either did not want at all, or might have preferred to purchase elsewhere on different terms." Jefferson Parish Hosp., 466 U.S. at 12.

(Continued..)

power in certain air transportation markets because business travelers' demand for convenient, frequent flights is highly inelastic. Faced with the prospect of losing valued corporate clients who insist on receiving discount fares and threaten to otherwise take their business elsewhere, travel agencies are left with little choice but to purchase CRS services from the dominant carrier. Business travel departments are similarly forced to use a dominant carrier's affiliated CRS to ensure that their travelers receive convenient, discounted air service. Indeed, in light of the Department's concern about increasing concentration of major carriers in the United States in recent years, the use of hubs that establish carriers' regional dominance in many areas of the United States, and travel agencies' and business travel departments' common practice -- often recognized by the Department -- of generally using only one CRS, it is clear that tying corporate discounts to CRS use should be of concern to the Department. Such tying produces dramatic and widespread anticompetitive effects in the CRS market, affecting major corporations, large travel agencies and frequent business travelers.

The tying of lucrative corporate business to use of a particular CRS produces an effect identical to that which led the Department to adopt a mandatory participation rule, which prevents owner-airlines from limiting their participation in competing systems in order to force travel agencies and business travel departments to purchase their CRS services. According to the Department, "If an owner airline limited its participation in competing systems, travel agencies in areas where that airline was the major airline would be compelled to subscribe to its system to obtain the best information and transactional capabilities on the airline. We therefore adopted

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When a seller imposes a tying arrangement on a buyer, "competition on the merits in the market for the tied item is restrained. . . ." Id.

the mandatory participation rule. . . ."[18] Amadeus can envision no valid justification for distinguishing between the two practices: if an owner-airline is prohibited from limiting its participation in competing systems so that it cannot force subscribers to purchase its CRS services, it should likewise be prohibited from limiting access to its discount fares in competing systems for precisely the same reason.

Amadeus respectfully submits that the position previously taken by the Department on this issue in its 1992 decision, declining to adopt a general prohibition against tying corporate discounts to use of a CRS, is unjustified in today's market. In that decision, the Department concluded that such tying is prohibited only if a discount fare is widely offered or commonly available.[19] This result should be revisited, first, because the practice of tying such fares to the use of an affiliated CRS is widespread and thus produces significant competitive distortions in the CRS/travel agency market, regardless of whether or not any particular discount fare is widely offered to the traveling public. In other words, by focusing on the availability of a

[18] 62 Fed. Reg. 59784, 59786 (Nov. 5, 1997) (citing 57 Fed. Reg. 43780, 43800-01 (Sept. 22, 1992); 56 Fed. Reg. 12586, 12608 (Mar. 26, 1991)). In 1992, the Department explained: "The [mandatory participation] rule is necessary, for some system owners do not participate in enhancements in other systems and do not provide complete information on their fares and services to CRSs, as we tentatively found in the NPRM. No one has argued that system owners never limit their participation in other systems as a weapon to obtain more subscribers at their hubs, and no one has denied the potential usefulness of such tactics. While a system owner will lose bookings from subscribers in another system when it reduces the level of its participation in that system, the loss in airline bookings can be outweighed by the gain in CRS subscriptions (and the likely increase in its airline revenues from the new subscribers)." 57 Fed. Reg. at 43800.

[19] Section 255.7(b) requires owner-airlines to make "commonly available" fares offered for sale in their own systems equally available for sale in every other system in which they participate. 14 CFR § 255.7(b). In adopting this rule, the Department stated: "We conclude that this requirement is justified on competitive grounds, since it will keep a CRS owner from using its dominance of a regional airline market as a tool for obtaining dominance in the area's CRS market." 57 Fed. Reg. at 43800.

particular discount fare, the Department has ignored the cumulative impact of the practice of tying discount fares to CRS use. That practice, repeated time and again with respect to large numbers of corporate fares, forecloses substantial competition in the CRS market. By effectively forcing travel agencies, including large agencies, that rely for a significant amount of revenues on one or a small number of major business accounts to use a particular CRS, the practice broadly undermines the goals sought to be achieved by the general rule against tying fares to CRS use, even if the particular fare being tied is available only to one corporation.

Second, the determination of whether a discount fare is "commonly available" or "widely offered" -- and what those terms in fact mean -- is left to the airlines that engage in the tying practices at issue. Therefore, as long as a CRS-affiliated airline's tied discount fares vary even slightly in amount, it can argue that each particular fare is not "commonly available," even if the special fares are in fact offered to numerous businesses or to large corporations employing thousands of persons.

In short, the fact that a particular corporate fare may not be widely or commonly available to the general public does not mean that the tying practice does not have a substantial and widespread impact on a significant amount of business and on a large number of travel agencies, whose right to choose a CRS for all of their bookings is restricted by the tying of the corporate discount. As shown next, this tying is directly at odds with the terms and purposes of the CRS rules designed to retain subscriber freedom in the choice of a CRS system.

IV. The Department Can Interpret the Current CRS Rules to Prohibit the Tying

The Department can readily interpret and apply the current CRS rules to prohibit the tying at issue here. One of the Department's primary objectives in fashioning the CRS rules was to prevent anticompetitive abuses arising from carriers' affiliations with CRSs. Consistent

with that objective, the Department has sought to prohibit carriers from unfairly exploiting their dominance in certain air transportation markets by restraining competition in the CRS market.

This policy is most clearly reflected in section 255.8 of the CRS rules, which governs contracts between system owners and subscribers. Notably, section 255.8(b) provides that "[n]o system owner may directly or indirectly impede a subscriber from obtaining or using any other system."[20] As the plain terms of the rule make clear, the Department's intent in issuing the rule was to prevent owner-airlines from restraining -- either directly or indirectly -- a subscriber's choice to use or obtain a competitor's CRS. In the case of tying of corporate fares, the sole purpose of such conduct is to restrain competition in CRS services; there are no legitimate business reasons for such tying. The result of the tying is that travel agencies and business travel departments are penalized by inaccessibility of corporate discount fares for their customers if they switch systems or simply choose not to purchase a particular airline-owner's CRS services. Obviously, such a penalty directly and unreasonably impedes a subscriber from using a competitor's system.

Section 255.8(c), even more to the point, provides that "[n]o system owner may require use of its system by the subscriber in any sale of its air transportation services."[21] This rule was likewise designed to prevent manipulation of the CRS market by owner-airlines possessing market power in the provision of air transportation services. Tying access to fares (and thereby the ability to sell flights) to the use of a particular CRS violates both the terms of, and the purpose underlying, section 255.8(c).

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[20] 14 CFR § 255.8(b).

[21] 14 CFR § 255.8(c).

Under section 255.8(d), "[n]o system vendor may require that a travel agent use or subscribe to its system as a condition for the receipt of any commission for the sale of air transportation services."[22] The Department adopted this rule to prohibit owner-airlines from coercing travel agents into using their affiliated systems by withholding the agents' commissions. Tying permits owner-airlines to achieve the same objective by withholding the availability of discount fares.

Further, the first sentence of section 255.7(b) requires each system owner to provide "complete, timely and accurate" information on its fares to other systems in which it participates "on the same basis and at the same time" that it provides the information to the system it owns.[23] On its face, these terms would apply to corporate discount fares. While the second sentence of this section of the rules requires the non-discriminatory provision of "commonly available" fares by system owners to other systems, those terms do not preclude the Department from issuing the interpretation of its rules sought here. The "commonly available" language in the rule does not expressly qualify the general requirement of equality in the provision of fare information mandated by the first sentence of the section. Moreover, the rules do not define the term "commonly available." The Department can, and should, interpret that term to reach fares offered to business entities by a system owner.

Notably, neither the EU Code of Conduct for Computer Reservation Systems nor the Canadian CRS Regulations use the concept of "commonly available" or "widely offered"

[22] 14 CFR § 255.8(d).

[23] 14 CFR § 255.7(b).

fares to limit the scope of non-discrimination obligations.[24] Through the interpretation requested here, the Department should move to eliminate this significant disharmony between its rules and those of other nations in which the same CRSs subject to the Department's rules do business. Amadeus is not aware of any problems that have been created by the application of the non-discrimination rules reflected in the CRS regulations of other nations to all fares, including corporate discount fares, and there is no reason to believe that the interpretation requested by this petition would lead to any problems in the United States.

CONCLUSION

The practice of tying the availability of corporate discount fares to the use of a particular CRS offers no competitive benefits to offset its anticompetitive effects. Indeed, this practice can only result in unduly restrained competition in the CRS market. Amadeus submits that such tying cannot be harmonized with the current CRS rules described above, and constitutes an unfair method of competition and an unfair or deceptive practice under section

[24] The EU Code of Conduct for Computer Reservations Systems bans such tying arrangements: "A parent carrier may not discriminate against a competing CRS by refusing to provide the latter, on request and with equal timeliness, the same information on schedules, fares and availability relating to its own air services as that which it provides to its own CRS or to distribute its air transport products through another CRS, or by refusing to accept or to confirm with equal timeliness a reservation made through a competing CRS for any of its air transportation products which are distributed through its own CRS. (A-4.1 .(a). EC Code.) It also provides: "A parent carrier shall neither directly nor indirectly require use of any specific CRS by a subscriber for sale or issue of tickets for any transport products provided either directly or indirectly by itself." (A- 10.2. EC Code.)

The Canadian Computer Reservation System Regulations (CA CRS) also prohibit tying special fares and use of the airline's affiliated CRS: "An obligated carrier shall provide to all systems that are operated in Canada, on the same basis and at the same time as such information is provided to any system, complete, up-to-date and accurate information concerning its schedules, fares, rules and availability in all classes of service." (CA CRS Regs. 6.)

417 12 of the Aviation Code. For all these reasons, Amadeus strongly urges the Department to act promptly to issue an interpretation of its rules prohibiting all tying of fares to CRS use. However, if the Department feels constrained not to address this matter through an interpretive ruling, it should issue a notice of proposed rulemaking with a view toward adopting an explicit prohibition against the tying of corporate discount fares offered by a system owner to use of a system in which the carrier has an ownership or other interest. Further, Amadeus urges the Department to vigorously enforce the prohibition against tying so as to eliminate this anticompetitive practice.

Respectfully submitted,

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